IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

Bail Appl..No. 5944 of 2007()

CRIME NO. 336/07 OF NEDUPUZHA POLICE STATION

APPLICANT/SOLE ACCUSED

LATHIKA SUBRAMANYAN, AGED 47 YEARS,
W/O.SUBRAMANYAN, MEERANMOLI, PANANCHAKAM P.O.,
MANNUTHY DESOM, OLLUKKARA VILLAGE, THRISSUR
TALUK.

BY ADV. SRI.P.VIJAYA BHANU
SRI.M.REVIKRISHNAN

RESPONDENTS: COMPLAINANT - STATE

STATE OF KERALA, REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5944 of 2007

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Dated this the 5th day of October, 2007

O R D E R

Application for anticipatory bail. The petitioner is a Mahilapradan attached to a post office. She faces allegations for offences punishable under Sections 406, 420, 465 and 471 I.P.C. Crime has been registered on the basis of a complaint lodged by the defacto complainant. The defacto complainant alleges that he had handed over an amount of Rs. 32,08,000/- to the petitioner for remittance as deposit in the post office. He was allegedly issued pass books to show that such amounts have been deposited. Monthly interest was being paid to him after making entries in the said pass books. When he needed some money, he wanted the amounts to be withdrawn from the deposits and approached the post office. It was then that he allegedly came to realise that he had been taken for a ride and that such amounts had not been deposited at the post office at all. When he made enquiries with the post office he realised the truth. The amount of Rs.32,08,000/- has not been deposited before the post office and that forged and false documents were produced before him

to make it appear that the amounts had been deposited at the post office and that interest was being paid monthly from the post office to him. Crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. According to the learned counsel for the petitioner, the petitioner is absolutely innocent. The defacto complainant had never handed over an amount of Rs.32,08,000/- to her. She admits that there was financial transactions between her and the defacto complainant. An amount of Rs.18 lakhs had allegedly been advanced by the defacto complainant as loan to the petitioner. Exorbitant interest was being demanded and paid. The entries regarding payment of interest were made in the post office pass books by the petitioner and such pass books were given to the defacto complainant. A forged seal of the Post Office was affixed in the pass books. The defacto complainant as well as the petitioner knew fully well that the entries in the post office pass books did not really refer to any deposit made by the defacto complainant in the post office, but they were only documents created to evidence payment of interest on the loan amount by the petitioner to the defacto complainant. The defacto complainant wanted the petitioner to sell a residential building with land which she had purchased, to him. The petitioner refused. On account of that animosity

totally false allegations are raised by the defacto complainant against the petitioner. The counsel submits that an amount of Rs.18 lakhs had been paid by the defacto complainant to the petitioner by three cheques. It is, in these circumstances, prayed that directions under Section 438 Cr.P.C. may be issued in favour of the petitioner.

3. The learned Prosecutor stoutly opposes the prayer for anticipatory bail. Absolutely no circumstances are shown to exist to justify or warrant the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C., submits the Prosecutor. This is a fit case where the petitioner must appear before the Investigating Officer and co-operate with the investigation. She must explain her version to the Investigating Officer.

4. The learned Prosecutor further submits that on the face of it the explanation pressed into service by the petitioner is not correct or acceptable. It appears to be admitted by the nature of the contentions raised that she, a Mahilapradan, had made entries in the post office pass books to make it appear that the post office had paid interest to the account holder. On the admitted version, the petitioner shall have to do a lot of explanations and it is not necessary to arm the petitioner with any order of anticipatory bail at this stage, points out the learned Prosecutor.

5. In the nature of the contentions raised, the learned Prosecutor was requested to place the case diary available for my perusal. I have gone through the case diary. I have in particular gone through the statements of the Post Master of the post office. His version clearly shows that pass books issued from the post office in the name of the defacto complainant and his relatives have been tampered with to make it appear that much more amounts are available in deposit and that monthly transactions are going on in respect of those accounts. Actually in none of these six deposits is there any amount exceeding Rs. 250/- But the pass books, it is seen, revealed that a total amount of Rs. 32, 08,000/- is available in the account. In any view of the matter, I totally agree with the Prosecutor that this is not a fit case where directions under Section 438 Cr.P.C. can or ought to be invoked in favour of the petitioner. This I am satisfied is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to

pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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